IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And

THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION NO : 21241 of 2004

Between:

K.V. Subba Rao, s/o Venkateswarlu, Panchayat Secretary, Bayyavaram G.P. and Incharge Panchayat Secretary, West Veerayapalem, Prakasam District.

..... PETITIONER

AND

1 The District Collector, (PT. Wing), Ongole, Prakasam District.
2 The District Panchayat Officer, Ongole, Prakasam District.
3 The Mandal Parishad Development Officer, Kurichedu Mandal, Prakasam District.
4 The Commissioner of Panchayat Raj & Rural Development, Government of Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction in the nature of Mandamus or otherwise declaring the proceedings issued in Rc.No. 1682/04 (PTS) A 5 dt. 28-10-2004 issued by the 1st respondent as arbitrary, illegal, unconstitutional, violating Article 14, 16 and 21 of the Constitution of India and set aside the same including the order of the Hon'ble Tribunal dt. 10.11.2004 in O.A.No. 6150/2004 and issue consequential directions directing the respondents to forthwith reinstate the applicant into service with all

consequential benefits in the interest of justice as otherwise the petitioner will be put to irreparable loss and injury.

Counsel for the Petitioner: MR.P.V.KRISHNAIAH

Counsel for the Respondents: GP FOR SERVICES-II

The Court at the stage of admission made the following:

ORAL ORDER: (by GB.J.)

The Writ Petition is filed challenging the order passed by the A.P. Administrative Tribunal (for short Tribunal) in O.A.No.6150 of 2004, dated 10.11.2004.

2. Before the Tribunal the suspension order issued by the 1st respondent-District Collector (PT Wing), Ongole, Prakasam District, in ROC.No.1682/04 (PTS) A5, dated 28.10.2004 was challenged. The learned Tribunal refused to interfere with the order of suspension and dismissed the O.A. on the ground that the appeal remedy is provided to the petitioner and the petitioner without availing the said remedy, approached the Tribunal. Against the said order, the present Writ Petition has been filed.

3. The learned counsel for the petitioner now submits that the reasons assigned by the Tribunal are not sustainable. Merely because an appeal remedy is available, it is not incumbent on the part of the petitioner to avail the said remedy. More especially in this case the authority simply taking the Vigilance Report No.95 GA (V&F) Department, dated 24.8.2004 into consideration and without giving any reasons and without applying mind, passed the order of suspension. Under those circumstances, the learned counsel for the petitioner submits that the said order is not sustainable and the same is liable to be set aside. Even on merits also he submits that no case is made out for suspending the employee and on this ground also the order of suspension is liable to be set aside.

4. We have also heard the learned G.P. for Services-II.

5. Inasmuch the petitioner was already suspended on 28.10.2004, we are not inclined to adjudicate the matter on merits. The learned Government Pleader

however submits that the disciplinary enquiry initiated against the petitioner will be completed as expeditiously as possible.

6. Under these circumstances, the Writ Petition is disposed of with a direction that the authority concerned shall complete the disciplinary enquiry and pass appropriate orders within a period of three (03) months from the date of receipt of a copy of this order. However, it is made clear that if the disciplinary enquiry is not completed within the time stipulated above, the petitioner shall be reinstated into service further pending disciplinary enquiry. No costs.

(G.BIKSHAPATHY, J.)

19th November, 2004.

(CH.S.R.K.PRASAD, J.)

SSR

To

1 The District Collector, (PT. Wing), Ongole, Prakasam District.
2 The District Panchayat Officer, Ongole, Prakasam District.
3 The Mandal Parishad Development Officer, Kurichedu Mandal, Prakasam District.
4 The Commissioner of Panchayat Raj & Rural Development, Government of Andhra Pradesh, Hyderabad.

5 2 CCs to the G.P. for Services-II, High Court of A.P. (OUT).

6 2 CD copies.